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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/661,218

09/12/2003

Harry Bims

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49579

7590

03/17/2008

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
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WASHINGTON, DC 20005

EXAMINER

CHURNET, DARGAYE H

ART UNIT

PAPER NUMBER

2619

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/661,218	Applicant(s) BIMS ET AL.	
	Examiner DARGAYE H. CHURNET	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 10, 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 26 is/are rejected.
- 7) ☒ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4, 5, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Ichikawa et al. (cited 6,307,837) hereinafter referred to as Ichikawa.

For claim 1, Ichikawa discloses broadcasting a message (fig. 14, communication startup request signal 18-1) at a repeater (fig. 14, wireless packet terminal 1-7) to one or more members in a network including a switch (fig. 14, wireless base station 1-6), the broadcasted message indicating that the repeater is entering the network (fig. 14, communication startup signal 18-1, communication will be started with the base station when the wireless packet terminal enters the network); receiving at the repeater, VLAN (virtual local area network) configuration information (fig. 14, authentication reception signal 18-7 including VLAN-ID, the VLAN configuration information) from the switch in response to the broadcast message; and communicating with the switch using the VLAN configuration information in subsequent communications (fig. 15, where authentication is determined and communication is allowed between the terminal and the base station). Claims 2, 4, 5, and 7 are rejected for similar reasons.

2. Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Tuli (cited 6,842,777).

For claim 26, Tuli discloses a method, comprising: determining at a repeater (PDA 26), line that a connection between the repeater and a switch (RDP Client 25) is down, based on at least one of a heartbeat, beacon, and/or data messages (col. 7, lines 19-22, beacon) received from the switch (col. 7, lines 19-22, the beacon message is used to determine if the connection is down); and in response to the determination, performing a reset process within the repeater that enables the repeater to reestablish a new connection with the switch (col. 7, lines 22-25, wherein the connection is reestablished if the connection was previously down).

Claim Rejections - 35 USC § 103

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichikawa in view of Phillips (cited 6,188,898).

For claim 3, Ichikawa fails to disclose downloading operating software from the switch to enable the repeater to operate. Phillips from the same or similar fields of endeavor teaches downloading operating software from the switch to enable the repeater to operate (col. 4, lines 20-23, mobile terminals download operating software from the base station). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate the elements above stated by

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Phillips in the network of Ichikawa. The method taught by Phillips is modified/implemented into the network of Dobbins et al. by downloading software from the base station to the mobile terminal. The motivation for downloading operating software from the switch to enable the repeater to operate is that both inventions teach mobile terminals communicating with base stations, and while communicating, the mobile terminal may get updated software from the base station. Claims 6 and 8 are rejected for similar reasons.

Allowable Subject Matter

6. Claims 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 9, 10, 29, and 30 are allowable.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dargaye H. Churnet whose telephone number is 571-270-1417. The examiner can normally be reached on Monday-Friday from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 2619

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Supervisory Patent Examiner, Art Unit 2619